F B

App. F. IX-4

Previous References

193 8-9
( )
S&A

File No. 549-38
Serial Nos. 1

S&A. 572-36 (1-2)
" 440-35 (1-5)
Letter References

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Agc

Pyrs

Part B for March 1939

SUBJECT.

Grumman ayakaranahalya
Poligar family Pension.

WD 0296—GPB—22,500—18-8-37

Papers ordered to be filed
9. 21-2-39

W.A.R.V. 16/5/39

1056

Gummanayakanahalli Pollegar Family

General and Revenue Secretariat 824 File No. 529 of 1938-39 [App. F. III—2

Serial No.

1 Petition dated 30.9.37 from G. Narasimha Naik, Head Barawardar, Gummanayakanapalya Pollegar Family, praying that Orders issued in G.O.No. Fe 5117/Sta. 540-35-2 dated 3/5-2-37 be set aside and his full share of the pension without the reduction of Rs 10-8-0, be paid to him.

The collect referred to at A supra, was submitted with Fe 1867/Sta.512-36 to the Financial Secretary in connection with the Comptroller's suggestions for modifying the procedure re disbursements of poly pensions. The return of the above file will be awaited if approved.

BRP 11/10

Sec 11.10.37

Sec B

71.7

The prayer of the petitioner is that the G.O. directing the deduction of the sum of Rs 10-8-0 from his pension as Head Barawardar in accordance with a private agreement entered into by his late father for being paid to Gumma Naik and Chikka Narasimha Naik be cancelled for reasons urged in his petition.

This point has been considered in full and even according to the Law Department, the private karars of the kind referred to can be recognised and has been so recognised by Government. This was in a way reconsidered also when the Respondents of the petitioner

Contn. Sheet.

WD 0417--GPB—30,000—8-9-36

File No. SLG 1051/37 of 1938

General and Revenue Secretariat

Serial No.

petitioner complained that the orders of Government were being held in abeyance and as a result it was ordered that the order should be given effect to.

In these circumstances there appears no ground for reconsidering the matter again.

The petition was presented on 30.9.37. Has the petitioner sent any reminder since pressing his claim

(duplicate file may be removed)

There are no grounds for reconsideration of orders already passed. No reply need now be sent to the petition presented 1½ yrs ago. The papers may I think be filed.

For perusal

Fin Sec

A.S.
21.2.39

B after Fin Sec's

1056
1 OCT 1937
GENL. & REV. SECTT.

S&W. 529-38 &1

To

The Financial Secretary
to the Government of Mysore,
B a n g a l o r e.

Petitioner : -

G. Narasimha Naik,
Head Barawardar, Gummanayakanapalya-
Palyagar Family, Bagepally Taluk.

-:(VS):-

Respondents : -

1. Gumma Naik.
2. ChikkaNarasimha Naick

Sons of Krishnappa Naik, Gummalapally,
Bagepalli Taluk.

The humble petition of the petitioner above-named MOST RESPECTFULLY SHEWTH:-

1. Government in their order No. Fe 5117/S+A 440-35-2 Dated 2/5-2-37 have ordered that a sum of Rs. 10-8-0 should be deducted every month from out of the share of the Petitioner and be added on to the amounts received by the Respondents, GummaNaik and ChikkaNarasimha-Naik, two of the share holders of the family pension and this was given effect to by the Khajana Bakshi from March 1937.

2. The Gummanayakanapalya Pollegar family has been in receipt of a pension of Rs. 572-0-4 a month. The Baraward is registered in the name of the Head of the Family

family and the pension amount is divided among all the share holders each getting his specified share every month from the Head Barawardar. This has continued from time immemorial and is supported by several Government orders.

3. Among such share holders are the two Respondents, GummaNaick and ChikkaNarasimha Naick, sons of Krishnappa Naik, one of the several younger brothers of the late Narasimha Naik, the grandfather of the Petitioner.

4, These two Respondents were getting a sum of only Rs. 56-4-0 originally. After the death of the Petitioner's grandfather, the Petitioner's father Ramalingappa Naick, succeeded as Head Barawardar and the entire pension was registered in his name, the several share holders receiving their shares from him.

5. As the Petitioner's father had no children, he adopted the Petitioner as his son after obtaining the previous sanction of Government.

6. While the Petitioner was about 20 years of age, the two Respondents wormed themselves into the good graces of the Petitioner's father and prevailed upon him to give them Rs. 10-8-0 a month from out of the amount he was enjoying as his own share as Head Barawardar, and were rendering personal services to him in return.

7. Petitioner's father also gave them each a Karar or promise in writing in 1913 that he would pay

pay Rs 5-4-0 each a month and that it shoudd be continued by future generations also.

8. But the said promise or karar, the Petitioner submits, is at the outset invalid, not being properly stamped or registered. It is not binding on the Petitioner who was no party to it, Petitioner having attained majority before 1913. Nor was it brought to the notice of the Government which is the authority that controls all pension matters.

9. It is rather unpleasant to relate that the Respondents created a split between the Petitioner and his adoptive father and tried their best to widen the gulf to gain their own selfish ends.

10. However, in the year 1930 when the Petitioner's father was in his extreme old age, he requested the State Huzur Treasury Officer to transfer the pension to the Petitioner which petition was sent to the Amildar of Bagepally for enquiry and report.

11. In the course of enquiry the Petitioner's father admitted that he was paying Rs 25/- to the Petitioner's natural father a month out of his own share which he wished should be continued unconditionally, but in the case of the Respondents he stated that he was paying them Rs 10-8-0 extra, <u>because they were obeying him and serving him in every respect and in all matters and the same may be continued if a similar state of these things should continue.</u>

12. The Petitioner has also in his statement

stated that if the Respondents behave towards the Petitioner in the same way as they used to do towards his father, he will have no objection to pay them the increased amount.

13. The Petitioner's father died subsequently and then the question of registering the pension in the Petitioner's name came up when the Respondents assumed a hostile attitude to the Petitioner by joining hands with DoddaNarasimha Naick who opposed the registery of the entire pension in the name of the Petitioner.

14. Nevertheless, Government recognised the long standing mamool obtaining in this family regarding the Head Barawardships and registered the pension in the name of the Petitioner with the direction that Dodda Narasimha Naik's share be paid direct from the Treasury.

15. On account of this misbehaviour of the Respondents in this as well as in other matters, the Petitioner withheld paying them the extra amount of Rs. 5-4-0 each which they were receiving from the Petitioner's father. This, the Petitioner submits, he was entitled to do in the circumstances and even according to the statements recorded from him and his father.

16. Thereafter, the Respondents created all sorts of trouble in the family and began to set up every creditor of the Petitioner against him. They also approached the State Huzur Treasury Officer and

and demanded that the extra amount of Rs. 5-4-0 each should be paid to them. They even went to the extent of asking for a separate registry, by laying all unfounded and frivolous charges against the Petitioner. Petitioner has ample proofs to show their hostile attitude, disrespect and breach of faith towards the Petitioner which dis-entitles them to the extra concession or indulgence of Rs. 5-4-0 each.

17. However, on some representation or application by the Respondents to the then State Huzur Treasury Officer, of which the petitioner was not furnished with a copy or given proper notice, the said Officer, who was then on the eve of his retirement, under a mis-apprehension of the true facts, made a recommendation to the Government contrary to his own previous report to the Government that Rs. 10-8-0 may be deducted from out of the Petitioner's share and added on to the Respondents shares; and this was approved by Government in their Order NO.ಕಸಿಇ7/ಸಾ.ಆ440-35-2 Dated 2/5-2-37 and came into effect from 1--3--1937.

18. From the foregoing it will be clear that the Government Order purports to be based upon the report of the State Huzur Treasury Officer and the Karars of 1913 of the Petitioner's father and the statement of the Petitioner himself before the Amildar.

19. Regarding the Karars, as submitted already they are on the face of them, illegal and invalid as they are not properly stamped and registered. They are

not binding on the Petitioner who was no party to it although he was a major at the time. They have absolutely no validity in the eye of law, as the disposal of the family pensions is not in the gift of the pension holder for the time being, but it is vested entirely in the hands of Government who control it according to the provisions of Hindu Law.

After all, the Government cannot and will not enforce specific performance of private contracts or karars in respect of family pension. From every point of view therefore, the karars have no legal validity and are worthless and cannot be acted upon.

20. Then as regards the Petitioner's consent inferred from his statement, the material words are as follows : -

ನಮ್ಮ ತಂದೆಯವರು ತಮ್ಮ ಹೇಳಿಕೆಯಲ್ಲಿ ಬರೆಸಿರುವ ಪ್ರಕಾರ ಅವರ ಅನುಮತಿಯಲ್ಲಿ ಪ್ರಾಂಕೆಯು ಇಲ್ಲಿ ವ್ಯವಹಾರ ಪತ್ರದಲ್ಲಿ 10-8-0 ಕಳ್ಳನ್ನು ಹೊಂದುಕ್ಕೆ ಬಂದು ಪ್ರಕರಣದಲ್ಲಿ ಅಂಥ ಅಭಿಪ್ರಾಯ ತೆರವ್ಯಾ ಇಲ್ಲ.

The above words should further be read along with the following words in the Petitioner's father's statement to which they refer : -

ನಮ್ಮ ಅನುಮತಿ ಮೇರೆಗೆ ನಕ್ಕೆಯು ಕೊಟ್ಟಾಂದು ಇಲ್ಲಿ ಪ್ರ ಕಾಬು 10-8-0 ಮಾಸಿಕ್ಕಾಂಯಾಂ ಕೊಂಪು ಕಿಳುಕ್ಕೆಲೆ. ಮುಂದೆಯೂ ಅದೇ ರೀತಿ ನಕ್ಕೆಯು ಕೊಟ್ಟಾಂದು ಇಲ್ಲಿ ಪ್ರಾಂಕೆ ದಲ್ಲಿ 10-8-0 ಕೊಂಪು ಅಭಿಪ್ರಾಂಕೆ ಪಿಲ್ಲ.

The intention and meaning of the Petitioner's statement is clear beyond doubt. It is made subject to a condition. It is not an out and out or absolute or unconditional grant. It is left to the will of the Petitioner to pay the extra sum or not according as the Respondents behave properly towards him and are helpful to him in all his undertakings. So, when the Petitioner has every reason to believe that the Respondents have

have misbehaved, it was quite competent to the Petitioner to withhold the extra sum. In the circumstances, the socalled contract or karar cannot be legally or morally enforced against the Petitioner.

21. The recommendation of the State Huzur Treasury Officer for the sanction of the extra amount on the strength of this conditional consent ignoring the condition subject to which it was given is altogether erroneous and is opposed to the Law and equity.

22. It is therefore humbly prayed that the Government may be pleased in the above circumstances to set aside the above order NO. RS 117/37-38 Dated 2-5-37 and declare and direct that the Petitioner as Head Barawardar is entitled as before to receive his full share of pension from the Government without the deduction of Rs. 10-8-0 in favour of the Respondents herein.

G. Narasimhamurthy Palegara

Petitioner.

Bangalore.
30th.Septr. 1937.

ADVOCATE
For Petitioner.